



# Crime and Disorder Act 1998

## 1998 CHAPTER 37

### PART I

#### PREVENTION OF CRIME AND DISORDER

### CHAPTER II

#### SCOTLAND

#### 19 Anti-social behaviour orders.

- (1) A [<sup>F1</sup>relevant] authority may make an application for an order under this section if it appears to the authority that the following conditions are fulfilled with respect to any person of or over the age of 16, namely—
- (a) that the person has—
    - (i) acted in an anti-social manner, that is to say, in a manner that caused or was likely to cause alarm or distress; or
    - (ii) pursued a course of anti-social conduct, that is to say, pursued a course of conduct that caused or was likely to cause alarm or distress, to one or more persons not of the same household as himself <sup>F2</sup>. . . (and in this section “anti-social acts” and “anti-social conduct” shall be construed accordingly); and
  - (b) that such an order is necessary to protect [<sup>F3</sup>relevant persons] from further anti-social acts or conduct by him.
- (2) An application under subsection (1) above shall be made by summary application to the sheriff within whose sheriffdom the alarm or distress was alleged to have been caused or to have been likely to be caused.
- [<sup>F4</sup>(2A) On an application made under subsection (1) above, being an application of which the person in respect of whom it is made has received intimation, the sheriff may, pending its determination, make such interim order as the sheriff considers appropriate provided that he is satisfied—

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- (a) that were the actings or conduct complained of in the application established, the condition mentioned in paragraph (a) of that subsection would be fulfilled; and
  - (b) that such an interim order is necessary for the purpose mentioned in paragraph (b) of that subsection.]
- (3) On an application under subsection (1) above, the sheriff may, if he is satisfied that the conditions mentioned in that subsection are fulfilled, make an order under this section (an “anti-social behaviour order”) which, for the purpose of protecting [F5 relevant persons] from further anti-social acts or conduct by the person against whom the order is sought, prohibits him from doing anything described in the order.
- (4) For the purpose of determining whether the condition mentioned in subsection (1)(a) is fulfilled, the sheriff shall disregard any act of the person in respect of whom the application is made which that person shows was reasonable in the circumstances.
- (5) This section does not apply in relation to anything done before the commencement of this section.
- (6) Nothing in this section shall prevent a [F6 relevant] authority from instituting any legal proceedings otherwise than under this section against any person in relation to any anti-social act or conduct.
- (7) In this section “conduct” includes speech and a course of conduct must involve conduct on at least two occasions.
- [F7(8) In this section and section 21 below—
- “relevant authority” means—
- (a) a local authority (that is to say, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39)); or
  - (b) a body registered in the register maintained under section 57 of the Housing (Scotland) Act 2001 (asp 10) (the register of social landlords);
- “relevant person” means, in relation to an application by—
- (a) a local authority, a person in the area of that authority;
  - (b) a registered social landlord—
    - (i) a person residing in, or otherwise on or likely to be on, premises provided or managed by that landlord; or
    - (ii) a person in, or likely to be in, the vicinity of such premises;
- and any reference to the area of a local authority is a reference to the local government area (within the meaning of the said Act of 1994) for which that authority is constituted.]

#### Textual Amendments

- F1** Word in s. 19(1) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 45(2)(a)(i)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F2** Words in s. 19(1)(a) repealed (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 45(2)(a)(ii)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F3** Words in s. 19(1)(b) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 45(2)(a)(iii)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F4** [S. 19\(2A\)](#) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 44(1)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.

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- F5** Words in s. 19(3) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 45(2)(b), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F6** Word in s. 19(6) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 45(2)(c), 89(2); S.S.I. 2003/288, art. 2, Sch.
- F7** S. 19(8) substituted (27.6.2003) by Criminal Justice (Scotland) Act 2003 (asp 7), ss. 45(2)(d), 89(2); S.S.I. 2003/288, art. 2, Sch.

**Commencement Information**

- I1** S. 19 wholly in force at 1.4.1999; S. 19 not in force at Royal assent, see s. 121; S. 19 in force in Scotland at 1.4.1999 by S.I. 1998/3263, art. 5

**20 Sex offender orders.**

**F8** .....

**Textual Amendments**

- F8** S. 20 repealed (1.5.2004) by Sexual Offences Act 2003 (c. 42), ss. 139, 140, 141(1), Sch. 6 para. 38(4), Sch. 7; S.I. 2004/874, art. 2

**21 Procedural provisions with respect to orders.**

- (1) Before making an application under—
  - (a) section 19(1) above;
  - (b) subsection (7)(b)(i) below,[<sup>F9</sup>a relevant] authority shall consult the relevant chief constable.
- (2) <sup>F10</sup> .....

[<sup>F11</sup>(2A) Before making an application under section 19(1) above or subsection (7)(b)(i) below, a registered social landlord shall provide notification of its intention to do so to the local authority within whose area the person in respect of whom the application is to be made resides or appears to reside.]

- (3) In subsection (1) above “relevant chief constable” means the chief constable of the police force maintained under the <sup>M1</sup>Police (Scotland) Act 1967
  - [<sup>F12</sup>(a)] the area of which includes the area of the local authority making the application; [<sup>F13</sup>or
  - (b) as the case may be, the place where the person in relation to whom the application is to be made by the registered social landlord resides or appears to reside].
- (4) A failure to comply with subsection (1) <sup>F10</sup> . . . above shall not affect the validity of an order made on any application to which [<sup>F14</sup>that subsection] applies.
- (5) A record of evidence shall be kept on any summary application under section 19 <sup>F10</sup> . . . above or subsection (7)(b) below.
- (6) Subsections (7) to (9) below apply to anti-social behaviour orders <sup>F10</sup> . . . and subsections (8) and (9) below apply to an order made under section [<sup>F15</sup>19(2A) ] . . . above.

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- (7) An order to which this subsection applies—
- (a) shall have effect for a period specified in the order or indefinitely; and
  - (b) may at any time be varied or revoked [<sup>F16</sup>(in the case of a sex offender order, by the appropriate court for that order)] on a summary application by—
    - (i) the local authority <sup>F10</sup> . . . [<sup>F17</sup>or registered social landlord] who obtained the order [<sup>F18</sup>or, in the case of a sex offender order, any other relevant chief constable] ; or
    - (ii) the person subject to the order.
- [<sup>F19</sup>(7A) <sup>F10</sup> . . . . .]
- [<sup>F20</sup>(7B) <sup>F10</sup> . . . . .]
- (8) The clerk of the court by which an order to which this subsection applies is made or varied shall cause a copy of the order as so made or varied to be—
- (a) given to the person named in the order; or
  - (b) sent to the person so named by registered post or by the recorded delivery service.
- (9) An acknowledgement or certificate of delivery of a letter sent under subsection (8)(b) above issued by the Post Office shall be sufficient evidence of the delivery of the letter on the day specified in such acknowledgement or certificate.
- [<sup>F21</sup>(9A) An interlocutor granting or refusing, under section 19(2A) above, an interim order is an appealable interlocutor.
- (9B) Where an appeal is taken, by virtue of subsection (9A) above, against an interlocutor granting an interim order that order shall, without prejudice to any power of the court to vary or recall it, continue to have effect pending the disposal of the appeal.]
- (10) Where an appeal is lodged against the determination of an application under section 19 <sup>F10</sup> . . . above or subsection (7)(b) above, any order made on the application shall, without prejudice to the determination of an application under subsection (7)(b) above made after the lodging of the appeal, continue to have effect pending the disposal of the appeal.

#### Textual Amendments

- F9** Words in s. 21(1) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 45\(3\)\(a\), 89\(2\)](#); S.S.I. 2003/288, [art. 2](#), Sch.
- F10** S. 21(2)(7A)(7B) and words in s. 21(4)(5)(6)(7)(b)(i)(10) repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), ss. 139, 140, 141(1), Sch. 6 para. 38(5)(a)(b)(i)(c)-(g), [Sch. 7](#); S.I. 2004/874, [art. 2](#)
- F11** S. 21(2A) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 45\(3\)\(c\), 89\(2\)](#); S.S.I. 2003/288, [art. 2](#), Sch.
- F12** Words in s. 21(3) renumbered as s. 21(3)(a) (27.6.2003) by virtue of [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 45\(3\)\(d\)\(i\), 89\(2\)](#); S.S.I. 2003/288, [art. 2](#), Sch.
- F13** S. 21(3)(b) and preceding word added (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 45\(3\)\(d\)\(ii\), 89\(2\)](#); S.S.I. 2003/288, [art. 2](#), Sch.
- F14** Words in s. 21(4) substituted (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), ss. 139, 141(1), [Sch. 6 para. 38\(5\)\(b\)\(ii\)](#); S.I. 2004/874, [art. 2](#)
- F15** Words in s. 21(6) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 44\(2\)\(a\), 89\(2\)](#); S.S.I. 2003/288, [art. 2](#), Sch.

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- F16** Words in s. 21(7)(b) inserted (1.10.2002 with application as mentioned in s. 70(9)) by [Police Reform Act 2002 \(c. 30\), s. 70\(6\)\(a\)\(9\)](#); S.I. 2002/420, [art. 2](#)
- F17** Words in s. 21(7)(b)(i) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\), ss. 45\(3\)\(e\), 89\(2\)](#); S.S.I. 2003/288, [art. 2](#), Sch.
- F18** Words in s. 21(7)(b)(i) inserted (1.10.2002 with application as mentioned in s. 70(9)) by [Police Reform Act 2002 \(c. 30\), s. 70\(6\)\(b\)](#); S.I. 2002/420, [art. 2](#)
- F19** S. 21(7A) inserted (1.10.2002 with application as mentioned in s. 70(9)) by [Police Reform Act 2002 \(c. 30\), s. 70\(7\)\(9\)](#); S.I. 2002/420, [art. 2](#)
- F20** S. 21(7B) inserted (1.10.2002 with application as mentioned in s. 70(9)) by [Police Reform Act 2002 \(c. 30\), s. 70\(8\)\(9\)](#); S.I. 2002/420, [art. 2](#)
- F21** S. 21(9A)(9B) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp007\), {ss. 44\(2\)\(b\)}, 89\(2\)](#); S.S.I. 2003/288, [art. 2](#), Sch.

#### Commencement Information

- I2** S. 21 wholly in force at 1.4.1999; s. 21 not in force at Royal Assent see [s. 121](#); s. 21 in force at 1.12.1998 for the purposes of sex offender orders made under s. 20 and orders made under s. 20(4)(a) by [S.I. 1998/2327, art. 4\(1\)](#); S. 21 in force to the extent that it is not already in force at 1.4.1999 by [S.I. 1998/3263, art. 5](#)

#### Marginal Citations

- M1** [1967 c.77.](#)

## [<sup>F22</sup>21A Sex offender orders made in England and Wales or Northern Ireland

<sup>F23</sup> . . . . . ]

#### Textual Amendments

- F22** S. 21A inserted (1.10.2002) by [Police Reform Act 2002 \(c. 30\), s. 71](#); S.I. 2002/420, [art. 2](#)
- F23** S. 21A repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\), ss. 139, 140, 141\(1\), Sch. 6 para. 38\(6\), Sch. 7](#); S.I. 2004/874, [art. 2](#)

## 22 Offences in connection with breach of orders.

- (1) Subject to subsection (3) below, if without reasonable excuse a person breaches an anti-social behaviour order [<sup>F24</sup>, or an interim order under section 19(2A) above,] by doing anything which he is prohibited from doing by the order, he shall be guilty of an offence and shall be liable—
  - (a) on summary conviction, to a term of imprisonment not exceeding six months or to a fine not exceeding the statutory maximum or to both; or
  - (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.
- (2) Subsection (3) applies where—
  - (a) the breach of the <sup>F25</sup> . . . order referred to in subsection (1) above consists in the accused having acted in a manner prohibited by the order which constitutes a separate offence (in this section referred to as the “separate offence”); and
  - (b) the accused has been charged with that separate offence.
- (3) Where this subsection applies, the accused shall not be liable to be proceeded against for an offence under subsection (1) above but, subject to subsection (4) below, the court

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which sentences him for that separate offence shall, in determining the appropriate sentence or disposal for that offence, have regard to—

- (a) the fact that the offence was committed by him while subject to [<sup>F26</sup>the order so referred to];
  - (b) the number of such orders to which he was subject at the time of the commission of the offence;
  - (c) any previous conviction of the accused of an offence under subsection (1) above; and
  - (d) the extent to which the sentence or disposal in respect of any such previous conviction of the accused differed, by virtue of this subsection, from that which the court would have imposed but for this subsection.
- (4) The court shall not, under subsection (3) above, have regard to the fact that the separate offence was committed while the accused was subject to [<sup>F27</sup>the order so referred to] unless that fact is libelled in the indictment or, as the case may be, specified in the complaint.
- (5) The fact that the separate offence was committed while the accused was subject to an anti-social behaviour order shall, unless challenged—
- (a) in the case of proceedings on indictment, by giving notice of a preliminary objection under paragraph (b) of section 72 of the <sup>M2</sup>Criminal Procedure (Scotland) Act 1995 (“the 1995 Act”) or under that paragraph as applied by section 71(2) of that Act; or
  - (b) in summary proceedings, by preliminary objection before his plea is recorded, be held as admitted.
- (6) <sup>F28</sup> .....
- (7) <sup>F28</sup> .....

#### Textual Amendments

- F24** Words in s. 22(1) inserted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 44(3)(a)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F25** Words in s. 22(2)(a) repealed (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 44(3)(b)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F26** Words in s. 22(3)(a) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 44(3)(c)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F27** Words in s. 22(4) substituted (27.6.2003) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), **ss. 44(3)(c)**, 89(2); S.S.I. 2003/288, **art. 2**, Sch.
- F28** S. 22(6)(7) repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), ss. 139, 140, 141(1), Sch. 6 para. 38(7), **Sch. 7**; S.I. 2004/874, **art. 2**

#### Commencement Information

- I3** S. 22 wholly in force at 1.4.1999; S. 22 not in force at Royal Assent, see s. 121; S. 22(6)(7) and for the purposes of their application to an order under s. 20(4)(a) and to a sex offender order made under s. 20, s. 22(1)-(5) in force at 1.12.1998 by [S.I. 1998/2327](#), **art. 4(1)**; S. 22 in force to the extent that it is not already in force at 1.4.1999 by [S.I. 1998/3263](#), **art. 5**

#### Marginal Citations

- M2** 1995 c.46.

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**[<sup>F29</sup>22A Anti-social behaviour strategies**

- (1) Each local authority shall prepare jointly with the relevant chief constable a strategy for dealing with anti-social behaviour in the authority’s area; and the authority shall publish the strategy.
- (2) The strategy shall, in particular, include provision as to—
  - (a) how the authority and the police are to co-ordinate the exercise of their functions in so far as they are exercisable in relation to anti-social behaviour in the authority’s area; and
  - (b) the exchange of information between the authority and the police relating to such behaviour.
- (3) The local authority and the relevant chief constable—
  - (a) shall keep the strategy under review; and
  - (b) may from time to time revise the strategy,and the authority shall publish the strategy as so revised.
- (4) In this section—

“anti-social behaviour” means any act or conduct (including speech) which causes or is likely to cause alarm, distress, nuisance or annoyance to any person;

“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39) and any reference to the area of such an authority is a reference to the local government area within the meaning of that Act for which it is so constituted;

“relevant chief constable” means the chief constable of the police force maintained under the Police (Scotland) Act 1967 (c. 77) the area of which includes the area of the local authority.]

**Textual Amendments**

**F29** S. 22A inserted (prosp.) by [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#), ss. 83, 89

**23 Anti-social behaviour as ground of eviction.**

- (1) <sup>F30</sup> .....
- (2) <sup>F30</sup> .....
- (3) <sup>F30</sup> .....
- (4) For Ground 15 in Schedule 5 to the <sup>M3</sup>Housing (Scotland) Act 1988 (eviction on ground of use of premises for immoral or illegal purposes etc.) there shall be substituted the following—

**Ground 15**

The tenant, a person residing or lodging in the house with the tenant or a person visiting the house has—

- (a) been convicted of—
  - (i) using or allowing the house to be used for immoral or illegal purposes; or
  - (ii) an offence punishable by imprisonment committed in, or in the locality of, the house; or

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- (b) acted in an anti-social manner in relation to a person residing, visiting or otherwise engaging in lawful activity in the locality; or
- (c) pursued a course of anti-social conduct in relation to such a person as is mentioned in head (b) above.

In this Ground “anti-social”, in relation to an action or course of conduct, means causing or likely to cause alarm, distress, nuisance or annoyance, “conduct” includes speech and a course of conduct must involve conduct on at least two occasions and “tenant” includes any one of joint tenants.”

- (5) No person shall be liable to eviction under paragraph 2 or 7 of Schedule 3 to the <sup>M4</sup>Housing (Scotland) Act 1987 or Ground 15 in Schedule 5 to the <sup>M5</sup>Housing (Scotland) Act 1988 as substituted respectively by subsection (2), (3) and (4) above in respect of any act or conduct before the commencement of this section unless he would have been liable to be evicted under those paragraphs or, as the case may be, that Ground as they had effect before that substitution.

#### Textual Amendments

**F30** S. 23(1)-(3) repealed (30.9.2002) by [The Housing \(Scotland\) Act 2001 \(asp 10\)](#), s. 112, Sch. 10 para. 27; S.S.I. 2002/321, [art. 2](#), Sch. (with arts. 3-5)

#### Marginal Citations

**M3** 1988 c.43.  
**M4** 1987 c.26.  
**M5** 1988 c.43.

## 24 Noise-making equipment: police power of seizure.

- (1) The <sup>M6</sup>Civic Government (Scotland) Act 1982 shall be amended in accordance with this section.
- (2) In section 54 (offence of playing instruments, etc.), after subsection (2) there shall be inserted the following subsections—
  - “(2A) Where a constable reasonably suspects that an offence under subsection (1) above has been committed in relation to a musical instrument or in relation to such a device as is mentioned in paragraph (c) of that subsection, he may enter any premises on which he reasonably suspects that instrument or device to be and seize any such instrument or device he finds there.
  - (2B) A constable may use reasonable force in the exercise of the power conferred by subsection (2A) above.
  - (2C) Schedule 2A to this Act (which makes provision in relation to the retention and disposal of property seized under subsection (2A) above) shall have effect.”
- (3) In section 60 (powers of search and seizure)—
  - (a) in subsection (5)—
    - (i) after the words “Nothing in” there shall be inserted the words “section 54(2A) of this Act or ”; and
    - (ii) for the words from “which” to the end there shall be substituted the words “ which is otherwise exercisable by a constable ”; and



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- (b) in subsection (6)—
- (i) in paragraph (a), for the words from “in pursuance” to the word “vessel” there shall be substituted the words—
    - “to enter and search—
    - (i) any premises in pursuance of section 54(2A) of this Act or of subsection (1) above; or
    - (ii) any vehicle or vessel in pursuance of the said subsection (1),”; and
  - (ii) in paragraph (c), after “under” there shall be inserted the words “section 54(2A) of this Act or ”.
- (4) After Schedule 2 there shall be inserted the Schedule set out in Schedule 1 to this Act.

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**Marginal Citations**

**M6** 1982 c.45.

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